REMARKS

Summary Of The Office Action & Formalities

Status of Claims

Claims 1-21 are all the claims pending in the application. By this Amendment, Applicant is canceling claim 15, amending claims 14, 16, and 21, and adding new claims 22. No new matter is added. Submitted herewith is an Excess Claim Fee Payment Letter with fee.

Claim to Foreign Priority

Applicant thanks the Examiner for acknowledging the claim to foreign priority and for confirming that the certified copy of the priority document was received.

Information Disclosure Statement

Applicant also thanks the Examiner for initialing the references listed on form PTO/SB/08 submitted with the Information Disclosure Statement filed on October 22, 2003.

Allowable Subject Matter

Claims 3-9, 16, 18, 20 and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant has rewritten claims 16 and 21 in independent form, thereby placing these claims in condition for allowance.

The Examiner is requested to reconsider the allowability of claim 19 in view of the fact that this claim depends from allowable claim 16.

Summary Of Prior Art Rejections

1. Claims 1, 2, 13-15, 17 and 19 are rejected under 35 U.S.C. § 102(e) as being anticipated by Rendle et al. (US 2004/0000563).

2. Claims 1, 2, 13-15, 17 and 19 are rejected under 35 U.S.C. § 102(e) as being anticipated by Beguhn (US 4,236,652).

3. Claims 1, 2, 11, 13-15, 17 and 19 are rejected under 35 U.S.C. § 102(e) as being anticipated by Redmond et al. (US 4,493,574).

Applicant respectfully traverses. As explained more fully below, none of the documents relied upon to reject the claim s teaches or even would have suggested to the skilled artisan structure for actuating the dispenser that causes an inlet of air in the reservoir before a first dose of fluid product be expelled out of said reservoir.

Claim Rejections - 35 U.S.C. § 102

1. Claims 1, 2, 13-15, 17 And 19 In View Of Rendle et al. (US 2004/0000563).

In rejecting claims 1, 2, 13-15, 17 and 19 in view of Rendle et al. (US 2004/0000563), the grounds of rejection state:

> Rendle et al. disclose, in figs. 2 and 3, A fluid dispenser comprising a fluid reservoir 18 of variable volume, said reservoir defining at least one movable wall 12, 14 that can be moved to vary the volume of the reservoir; a dispensing orifice 20 in communication with the reservoir so that fluid from the reservoir can be delivered through the dispensing orifice when the volume of the reservoir is reduced; an actuating means 16 making it possible, in a first stage, to increase the volume of the reservoir by drawing air into the reservoir, and then, in a second stage, to reduce the volume of the reservoir by delivering air and fluid through the dispensing orifice; the actuating means comprise a press zone[ ]12 and a backing zone 14, the press zone being moved towards the

> backing zone generating an increase and then a decrease in the volume of the reservoir; and a removable closure member 42 is initially positioned over the dispensing orifice.

Office Action at pages 2-3. Applicant respectfully disagrees.

Claim 1 covers a fluid dispenser comprising a reservoir of variable volume and actuating means making it possible: (1) in a first stage to increase the volume of the reservoir by drawing air into the reservoir, and (2) in a second stage to reduce the volume of the reservoir by delivering air and fluid though the dispensing orifice.

Rendle et al. discloses a fluid dispenser made and filled in the manner explained in paragraph [0017] of the publication. The fluid contained in the dispenser is dispensed in the manner described in paragraph [0020] of the publication. What is very clear from the disclosure is that the actuator of this dispenser is not structured to cause an inflow of air inside the reservoir and, subsequently the fluid contained in the dispenser directly dispensed through the orifices created by the bending of the dispenser. Indeed, when first actuating the dispenser, the reservoir in Rendle et al. only contains the fluid product and the volume of the reservoir does not increase before first dispensing the fluid product.

Claim 14 recites that "when the press zone is moved towards the backing zone, the volume of the reservoir is increased to draw in air." Accordingly, this claim is also believed to be allowable, since Rendle et al. does not teach or suggest increasing the volume of the reservoir to draw in air.

In view of at least the foregoing distinction, the Examiner is kindly requested to reconsider and withdraw the rejection of claims 1 and 14 and dependent claims 2, 11, 13, 15 and 17.

2. Claims 1, 2, 13-15, 17 And 19 In View Of Beguhn (US 4,236,652).

In rejecting claims 1, 2, 13-15, 17 and 19 in view of Beguhn (US 4,236,652), the grounds of rejection state:

> Beguhn discloses, in figs. 3 and 4, A fluid dispenser comprising a fluid reservoir 13 of variable volume, said reservoir defining at least one movable wall 11, 12 that can be moved to vary the volume of the reservoir; a dispensing orifice 16 in communication with the reservoir so that fluid from the reservoir can be delivered through the dispensing orifice when the volume of the reservoir is reduced; an actuating means 30 making it possible, in a first stage, to increase the volume of the reservoir by drawing air into the reservoir, and then, in a second stage, to reduce the volume of the reservoir by delivering air and fluid through the dispensing orifice; the actuating means comprise a press zone[ ]l 2 and a backing zone 11, the press zone being moved towards the backing zone generating an increase and then a decrease in the volume of the reservoir; and a removable closure member (core area) is initially positioned over the dispensing orifice.

Office Action at page 3. Applicant respectfully disagrees.

Beguhn discloses a fluid dispenser that is made as described in column 2, lines 13-16. The operation of the dispenser, and in particular, the manner in which fluid is dispensed is described in column 2, lines 37-40. Beguhn clearly does not disclose a dispenser, wherein, upon first actuation, the volume of the reservoir is first increased with the inlet of air into the reservoir before later decreasing due to the expelling of fluid product with air.

In view of at least the foregoing distinction, the Examiner is kindly requested to reconsider and withdraw the rejection of claims 1 and 14 and dependent claims 2, 11, 13, 15 and 17.

3. Claims 1, 2, 11, 13-15, 17 And 19 Over Redmond et al. (US 4,493,574).

In rejecting claims 1, 2, 11, 13-15, 17 and 19 in view of Redmond et al. (US 4,493,574), the grounds of rejection state:

> Redmond et al. disclose, in figs 8 and 9, a fluid dispenser comprising a fluid reservoir (22) of variable volume, said reservoir defining at least one movable wall that can be moved to vary the volume of the reservoir; a dispensing orifice 26 in communication with the reservoir so that fluid from the reservoir can be delivered through the dispensing orifice when the volume of the reservoir is reduced; an actuating means 12A, 12B making it possible, in a first stage, to increase the volume of the reservoir by drawing air into the reservoir, and then, in a second stage, to reduce the volume of the reservoir by delivering air and fluid through the dispensing orifice; and a removable closure member (core area) is initially positioned over the dispensing orifice; and the dispensing orifice further comprises a piece of porous material 66.

Office Action at pages 3-4. Applicant respectfully disagrees.

Redmond et al. discloses a fluid dispenser, which also does not include an actuator that, in a first stage, increases the volume of the reservoir by drawing air and, in a second stage, reduces the volume by delivering air and fluid. Indeed, the operation of the dispenser disclosed in Redmond et al. is described at column 9, lines 4-28. It is clear that this operation conventionally results in a first stage that delivers the fluid contained inside the reservoir (without a previous inlet of air).

In view of at least the foregoing distinction, the Examiner is kindly requested to reconsider and withdraw the rejection of claims 1 and 14 and dependent claims 2, 11, 13, 15 and 17.

New Claims

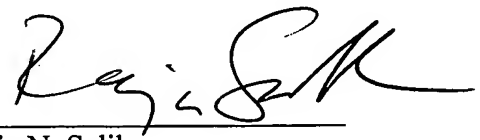
For additional claim coverage merited by the scope of the invention, Applicant is adding new claims 22. Claim 22 is believed to be allowable at least because it recites the actuating means element in accordance with 35 U.S.C. § 112(6) and, therefore, covers the structure disclosed in the specification for performing the recited function and equivalents thereof.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



Raja N. Saliba
Registration No. 43,078

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE
23373
CUSTOMER NUMBER

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